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William Mitchell College of Law

William Mitchell
OPINION

Volume 14 November, 1972 No. 2

WHO RULES THE LAW SCHOOL?

A Political Analysis

By Greg Gaut

It can be fairly said that there is an undercurrent of dissatisfaction at this law school. It may well be true that there has always been a knot of frustration below the surface here, legal education being what it is. But the difference now is that the dissatisfaction is closer to the surface. This phenomenon could be seen at the gripe session last year at which a large crowd of students pressed the Dean with some intensity. It can also be seen in the increasingly frank criticisms of some members of student government. Beyond that, I have noticed in my own third year class a subtle but growing cynicism, a feeling of having been had, and a corresponding tendency to challenge the instructors and the Dean as to the nuts and bolts of our education, i.e. over-large sections, arbitrary rescheduling, poor teaching performance, etc.

It has often been said, and I for one am tired of hearing it, that the reason for this attitude among students is that the students are changing. It is pointed out that we look different, are younger, have different backgrounds, have more time and probably smoke different things, too. To say that students are unhappy because they are different is nonsense. The sensible approach when a body is sick is to diagnose and treat the source of the illness, not just its symptoms. Having been a symptom since my first night in this law school, I have attempted to contribute to the diagnosis with the following outline and analysis of the way this school is run. I have tried to focus on the situs of decision-making power in the hope that this will provide a point of discussion and a guide for action.

The first impression one gets when looking for the decision-making structure of William Mitchell College is that there isn't one. To begin with, there are no written procedures, no committees to state your case before, and nowhere to appeal an adverse decision. Nor are there written guidelines clearly charting the jurisdiction of the Trustees, faculty, or Dean. For example, the Articles of Incorporation provide that the Board of Trustees shall prescribe the duties of the dean and of the faculty in the By-Laws, but the By-Laws are silent on this subject.

But the most glaring absence of structure is the almost total lack of a faculty committee system. Except for a scholarship and a library committee, there seems to be no sub-group within the faculty with any sort of responsibility. Certain individual faculty members do have certain responsibilities which they handle alone; Jack Davies, for example, makes all admission decisions. The Dean told me that there once was a faculty curriculum study committee which met regularly but it was discontinued about three years ago. "A lot of places," he said, "have an elaborate committee structure for the faculty but I think that's counter-productive."

It should be pointed out that faculty meetings do occur, at least for

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Warren Burger, Chief Justice of the United States Supreme Court and graduate of William Mitchell, posed with Pete Sequin and Dave Adams, juniors at Mitchell, while visiting Minnesota

'Shop Early'

Attorney Tells of Real World

The purpose of The Extra Hour is to bring speakers to the college who can help the law student relate to the outside world. It succeeded with its first speaker of the year, Mr. Sam Hanson.

Hanson, a practicing attorney with the St. Paul law firm of Briggs and Morgan, was quick to point out that the real world of the practicing attorney was a far cry from the college community.

His remarks were directed to the area of how the graduating law student makes the transition to that "real world" by giving the students some insight into the problems involved in taking that first step in the transition — namely, finding employment.

In choosing a firm, Hanson suggested that a good thing to do in an effort to determine the quality and reputation of a firm which is unknown to a graduate is to inquire of several of the judges in the county in which the firm is located. "They know the attorneys and will usually answer your questions directly," said Hanson.

Hanson went on to discuss the pros and cons of the large versus the small law firm. While conceding that his was a value judgment, he felt that the advantages of the large firm outweighed those of the small. Hanson felt that with the large firm an attorney was not as tied down with the requirements of "making a living and meeting expenses." This enables the young lawyer, according to Hanson, to experience more variety in the early years and to spend more time learning the law. Hanson felt that in a smaller firm there was much more pressure to "become productive" in the sense of bringing business directly into the firm, and therefore less opportunity for a young lawyer to explore different areas of the law.

Hanson pointed out that there was no exact science to hiring a person and that an interviewer will consider grades, personality, and the law related experience of the applicant, with no one factor being determinative.

Hanson had some specific suggestions for job hunters:

1. Shop early — if you are looking at a large firm, you should be "on the street" during September, October and November of your senior year. Offers will come, if at all, in December from the big firms. Small firms seek new lawyers only when needed and can't project 9 or 10 months in the future. The small ones, therefore, are fair game any time.

2. Forget "interview days" as they are next to useless, according to Hanson. This applies whether they are held at the law school or at the law firm. Instead, says Hanson, get an appointment with the hiring partner for a special day. Do make it early in the morning and preferably as early in the week as possible.

3. Be prepared to explain (and volunteer it if necessary) A. Why you want that firm; B. Why you want that job; C. Why you want to practice law. In the words of Hanson, "such an explanation might not help, — but the lack of it will definitely hurt you."

For those of you who would like to hear Mr. Hanson's entire 50 minute presentation, it is available on cassette tape. Please direct your requests to Don Horton c/o the school office.

Next on the agenda for The Extra Hour is Richard J. Langlais, speaking on taxation and the professional association.

Hanson offers practical advice.

First Annual Seminar To Be Held

The William Mitchell Student Bar Association is sponsoring the First Annual Criminal Justice Seminar on Monday and Tuesday, November 20 and 21. Regular classes at the school will be cancelled for the two evenings.

According to Stephen Doyle, who has co-ordinated the Seminar, the format will consist of talks by various members of the legal community whom have gained special recognition in a given area of the practice of law. After the talks, the speakers will sit as a panel and entertain questions and carry on a group discussion.

Present plans are that Hennepin County District Judge Bruce C. Stone and attorneys Ron Meshbesher, Doug Thompson, John Turney and Manny Kopstein will participate in the Seminar. Topics to be covered include search and seizure, lineup procedure, and other stages of Criminal Procedure which occur between arrest and the end of trial.

The Seminar is scheduled to be held at the Museum of Natural History, on the University of Minnesota Campus from 6:30 to 10:30 each evening.

More Pass Bar Exam This Year

Those prophets of overcrowding in the legal profession added another statistic to their fact sheet with the recent announcement of the July Bar examination results. A combination of a larger number of graduates sitting for the exam and a much higher passing rate increased the October admissions to the Bar 39% over those of last year. In 1971, 182 out of 279 passed the exam — 65.2%. This time, 296 of 344 made it — 86%.

Again this year, the University of Minnesota maintained its six point advantage over William Mitchell with a passing rate of 91% among its 180 examinees. Mitchell had 85% of 55 passing. In 1971, the rates were 71.5% and 65.2%, respectively.

Out of state rates improved too, from 65% in 1971, to 78% this year, a 20% improvement.

WILLIAM MITCHELL OPINION

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STATEMENT OF POLICY

The WILLIAM MITCHELL OPINION is published by the Student Bar Association of the William Mitchell College of Law for the purpose of educating and informing Mitchell students and alumni of current issues and affairs of law and the law school. In furtherance of that purpose, the OPINION will present the views of any student, faculty member, alumni, or the administration.

The OPINION will endeavor to fully and thoughtfully consider all material to determine its relevance and appropriateness before publication. Such consideration will be made with the assumption that freedom of the press within the law school is no less a fundamental right than outside the law school; and in view of the OPINION's recognized responsibility to the members of the student bar, practicing attorneys, and faculty and administration of the law school. Editorials represent only the opinion of its writers.

The Long Wait

Freshmen students will probably be surprised to discover that the grading of final exams will take anywhere from one to two months, that they cannot hand in self-addressed, stamped post cards, and that the grades are issued one at a time because all must be in before anyone gets them.

It is understandable that long essay exams will take more grading time than multiple guess tests, but it is hard to conceive of a valid reason for postponement of grading exams until a professor has had his vacation or attended to "more important" things, and then sits down after the 4th of July to grade his students' exams.

Someone has suggested holding instructors' paychecks until their grades were turned in to the office. This would be very effective but would not be fair to the faculty if they really did have other pressing problems which demanded their immediate attention. It would also have the disadvantage, as does all negative reinforcement, of creating ill-will among the faculty towards their students and their payor (the Dean).

Another solution might be to issue the grades as they come in, by allowing students to hand in post cards or pick up slips for each class. The argument against this is that it would not be fair to let a student think he is doing quite well and then find out he flunked out after he gets his last grade. Unfortunately, the impact of finding you flunked out of law school is just as awful one way as it is another. It would be a simple device to have the instructors record the grade on a self-addressed, stamped post card placed in the bluebook and handed in with the exams to the office where they could be mailed en masse and double-checked for accuracy. Those students who fear for their health on learning the terrible truth may postpone it by merely not putting a post card in their exam bluebook; and those who aren't too interested for other reasons may do likewise. This system, or another where one could come into the office to pick up a grade slip, would have the advantage of putting the blame, pressure, frustration and whatnot on the individual who deserves it. It would also allow the students to get their grades as they are recorded, rather than holding up most of them for the sake of one slow grader. The amount of extra work required by the faculty or the office girls is so minimal that it can be no basis for opposition.

The old saying that money speaks louder than words is a reminder that our professors could be taught, like Pavlov's dogs, to do their jobs quickly by a bonus system. Something like $50.00 if you get your grades into the office within two weeks of the test, or perhaps a graduated scale of bonuses. This may seem absurd, but it would probably be successful and the cost to each student would probably be somewhere between one and two dollars. Certainly the extinguishment of one month of anxiety would be well worth this sum, and as a positive reinforcement, this system would promote smiles of glee among the faculty.

We all know that other schools often keep their students waiting until well into August before grades are out. That is no excuse for us to continue to do so, and Mitchell should and can be progressive in this area if the administration is willing to find a solution to the problem.

K.S.

YOUR OPINION PLEASE

To the Editor:

I suggest the goal of a legal education is to help prepare individual students to enable them to serve objectively, open-mindedly, and intelligently, the best interests of future clients. I would further suggest that this goal is best achieved by offering a stimulating, challenging, innovative and creative educational program taught by experienced, interested and prepared instructors who utilize class time for instruction and free discussion. Although many exceptions exist, we at Mitchell certainly do not have a faculty or an educational program even approaching this admittedly far reaching goal. Instead of whole heartedly pursuing these goals, there are incredibly numerous examples of wasted class time, antiquated school policies, and the idiosyncratic manifestations of individual instructors. The resulting discontent is continuously murmured throughout the lounge, halls and bars. Yet, instructors continue to take attendance as per "school policy"; to spend an hour of class time arranging seating charts and assigning students numbers in lieu of names; to talk about athletic events and the Tennessee Business Corporation Act; to fulfill fetishes regarding students who choose to sit in back rows; to cancel and reschedule classes quite freely while students attempt to find transportation and babysitters; or to read word for word from the assignment instead of supplementing from outside sources and experiences. How much time do you consume bitching about these and other daily episodes?

But, before one becomes the accusor, let us consider where the responsibility really lies. There is but one explanation for the continued existence of these disfunctional practices. We the students allow them to exist and flourish by our compliance. The recourses available to students are limited only by our lack of involvement, and general lack of guts. The permeating spirit of this school is that it accepts standards which should be raised.

Certainly not all is negative, as new programs and people are being activated. Many are working hard to make our education and this school a better one. The American system of Justice is an advocate system. That fact does not offer an opportunity, but imposes a responsibility. How well do you handle your responsibilities?

Stephen Doyle
Junior, William Mitchell

To the Editor: One-third of the junior class's time this year will be spent in 'en masse' instruction, given to 140 students simultaneously.

Upon inquiry as to the possibility of smaller classes, the typical response of the professors was that smaller classes would result in increased work loads for themselves, and that the methods of instruction in those classes are such that the large size of the classes in no way detracts from the quality of the educational product.

It would seem that class size could be irrelevant to quality of instruction only if the exchange between the instructor and student is either irrelevant or nonexistent. If the material is going to be presented without exchange between the professor and the class, one wonders why video tapes are not utilized. Once the tapes have been made, the instructors would be free to invest more time into those areas where exchange should take place.

This would provide equal quality in 'non-exchange' courses and improve the quality of the remaining courses, all without over-burdening the faculty.

Frank Mabley,
Junior, William Mitchell

A Challenge To The Faculty

It is becoming generally recognized that the 'changing face of William Mitchell' is witnessing a marked transformation: student apathy, abdication of responsibility and acquiescence are being more seriously challenged to a greater extent, and by an increasingly larger number of students than has ever before been the case at William Mitchell.

This change was specifically recognized in a report by the Inspection Team from the American Bar Association's Section of Legal Education and Admissions to the Bar, after its visit here last spring.

What has gone largely unnoticed, however, is the absence of any corresponding change on the part of what continues to be an apathetic faculty.

The faculty, as a whole, remains unabashedly complacent to play a very minimal role in the governance of the school:

Not one faculty committee existed during the last school year.

Meetings of the faculty have been virtually non-existent. They have met once in each of the past three years, the last of which was at the request of the Student Bar Association.

They serve no role, in any formal sense, in the selection of new members for the faculty. Nor do they participate in promotion decisions.

These minimal contacts of the faculty insofar as their contribution to the school's policy direction were also specifically recognized in the Inspection Team's report. Similar consternation has been indicated by William Abbott, President of William Mitchell's Board of Trustees.

We now challenge the faculty to accept their responsibilities in governance of the school. Abdication of responsibility or delegation of authority inhibits growth. Consistently accepting decisions of others dissolves desire to question. It undermines the meaning of education itself. Acquiescence is boring and even humiliating. Education should be neither.

The student government and administration are making continuing efforts to improve the educational program at William Mitchell. It is axiomatic that two-thirds of a team cannot perform as effectively nor efficiently as can an entire team.

A growing William Mitchell must have energetic interaction of students, administration and faculty. The re-creation of a student-faculty liaison committee would be an encouraging movement in that direction. Such a committee would provide a badly needed forum in which a presentation of issues and exchange of ideas can take place.

It would provide a source from which the Board of Trustees could receive input and feedback.

No one can seriously doubt that interaction between all quarters of the Mitchell community will procreate an intellectual revitalization from which the college only stands to emerge as a beneficiary.

As John Stuart Mill, the nineteenth century's most widely known political writer concluded in his essay, **On Liberty.** "The peculiar evil of silencing the expression of an opinion is that it is robbing the human race . . . those who dissent from the opinion still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose what is almost as great a benefit, the clearer perception and livlier impression of truth produced by its collision with error."

Mill's conclusion is no less true now than it was when he wrote it.

S.R.B.

COMMENT

This issue of the OPINION is a markedly significant one. It is indicative of the new life which has been breathed into the William Mitchell student body.

With the publication of this issue, the SBA has published more pages of substantive content during the first two months of school than have been published during any entire year in the paper's twelve year history.

We are hopeful that student participation will continue to flourish. We are also hopeful that members of the faculty and the practicing bar will become contributors.

S.R.B.

Bar Exam Dilemma

THE DEAN'S COLUMN

In fall a young law student's fancy lightly turns to thoughts of the bar examination. This paraphrase of Tennyson's lines may be overly broad but, especially for senior law students, there is a good deal of truth in it. The July examination results are usually released early in October, about three months after the administration of the exam. Examinees who were confident on the day of the exam find themselves stammering and quivering as they fumble with the envelope containing the examination results. When that envelope has finally been opened a sigh of relief or a whoop of joy is the normal response, for in most cases the results are favorable and the examinee has found that he can now proceed to live his life in a normal fashion after having been in a state of suspended animation for three months.

DEAN HEIDENREICH

In a few cases (this time only about 15%) the ritual of the opening of the envelope is followed by deep gloom and black despair when the result is seen to be negative. No school, no segment of the graduating class, is immune from failures. True, in general the people who have done well in law school do well on the bar exam and the people who have done poorly in law school do poorly on the bar exam; nevertheless it happens uncomfortably often that good students fail the exam and are compelled to undergo several more months of preparation followed by another period of waiting. Very frequently these second time examinees are successful and are able to reestablish their normal pattern, having simply lost a half year in the profession that they have chosen to follow.

What is the bar exam all about? Should a student who has undergone three or four years of rigorous academic training be compelled to undergo this last hurdle before being allowed to practice the profession for which he has trained so long and hard? Does the exam protect the public from incompetent law school graduates? Does it compel graduates to make one more comprehensive review of their basic knowledge? If so, is the cost, the time and the effort worth whatever positive result is thus achieved?

Over the years the bar exam has been continuously subject to criticism. There is always a rumble of discontent if a substantial number of examinees fail: it is considered unfair to students who have undergone such long, hard training to delay their admission into the practice of law on the result of a single two-day exam. On the other hand, if nearly everybody passes the examination the criticism is made that it is a pro forma ordeal through which everyone must pass, presumably because it has always been done this way. The 1971 legislative session saw the introduction of a bill designed to eliminate the requirement of the exam for graduates of the two ABA approved law schools in the State of Minnesota. Presumably a similar bill will be presented in 1973.

Most law students enthusiastically support such a proposal. They see the bar exam as a gigantic barrier over which they must climb, they hope only once, and which serves no real purpose. Without suggesting that the exam could not be improved and without suggesting that any graduate does not have the ability to succeed in the practice of law, let me suggest that legislative attempts to eliminate the bar exam may not be entirely appropriate.

First, there is the serious question of whether the legislature has or ought to have any control over the determination of who will practice law in the State of Minnesota. Among the inherent powers of the Minnesota Supreme Court is the power to say who will practice law before that Court and the other courts of the state. There is a serious question whether the legislature has the authority to preempt the court's power to say who shall practice law. It would seem that the only appropriate way of changing, expanding, contracting, dispensing with, or otherwise dealing with the bar exam would be by means of Supreme Court rule.

That question aside, it seems that the bar exam does perform a useful function insofar as the law schools are concerned. The practicing bar historically has held the view that it ought to have some influence over the preparation and training of lawyers. The days of "reading the law" in a lawyer's office as preparation for admission to the bar are not very far removed from the present day. The bar exercises that authority through the Court and its board of law examiners, which is geographically representative of the lawyers throughout the state. The board has the responsibility to oversee the preparation and grading of the bar examination. While the actual work is in the hands of the Director of Bar Admissions, he works for the Board of Law Examiners and acts only within the scope of the authority that the Board gives him.

If there were no bar examination how would the practicing bar's influence over the training and preparation of lawyers be exercised? Would it be appropriate for the court to require that a certain curriculum be established for each law school in the state? Would it be appropriate for some board of visitors to determine whether the law schools were providing proper training for prospective lawyers? Would it be appropriate for bar associations or groups of lawyers with special interests to attempt to influence the schools to accept or reject certain types of students, to hire certain types of instructors or to provide or avoid certain kinds of course content?

Without the bar examination the ultimate determination whether any particular individual should practice law would be completely in the hands of the law schools. An academic dismissal from law school pretty much destroys a student's opportunity to become a lawyer. If ultimate graduation from law school would be the key to the profession would law faculties be more strict in their dismissal and retention policies? Would they deem it appropriate to institute some sort of comprehensive examination within the structure of the law school? Would they be called upon to shoulder some or all of the burden of examining law students for character and fitness at some time prior to admission to law school, or some time during the course of their legal training?

Perhaps these are questions without any real substance. Our neighboring state of Wisconsin, which has the diploma privilege for graduates of the law schools of the University of Wisconsin and Marquette, seems to get along well and has a minimum of difficulties. Nevertheless, it would seem appropriate for students, lawyers and legislators who support the elimination of the exam to consider these questions before taking a firm stand on the question.

Students Pursue Interest in CLE

by Gretchen Quattlebaum

The birth of a clinical legal education program at William Mitchell is a painfully slow process. In the past month, a group of Mitchell students have divided into three committees and have been exploring various aspects of such a program. The decision which yet remains to be made is whether Mitchell should start a separate program of its own, or develop a joint program with the University of Minnesota's existing program (possibly opening a branch office in St. Paul). Until this decision is made, little constructive headway is foreseeable.

The clinical program at the University, headed by Professor Robert Oliphant, consists of four sections: a prisoner assistance clinic, a civil legal aid clinic, a criminal (misdemeanor) clinic, and an appellate program. From twenty to forty students are involved in each program per quarter. Five full-time attorneys provide faculty supervision and twelve senior law students function as "student directors," receiving academic credit for their assistance.

The University's program maintains three staffed offices in Minneapolis and schedules interviews one morning and four evenings a week with clients.

After a student has interviewed a client, he must get a student director's approval to handle the case, and the student director must have the approval of a licensed attorney who works with the program. Once approval has been given, the student has charge of researching the law and investigating the facts relevant to the case. He then submits a memorandum to the student director and attorney for their evaluation, and if all is in proper form, the student attempts to negotiate a settlement or represent the client in conciliation court.

If the case goes to a higher court than conciliation, a senior law student is allowed to try the case under the supervision of a licensed attorney.

In addition to handling cases, the student is required by the law school to attend a weekly seminar meeting where faculty members and practicing attorneys discuss related substantive issues.

Directors of the clinical program at the University are interested in a joint program with William Mitchell for three reasons. First, their case load has gotten extremely large; secondly, they would like to see an office opened in St. Paul; and thirdly, the Minnesota State Bar Association has indicated an interest in giving financial assistance to such a joint program. The expense of maintaining a clinical program is an unrelenting problem. University's student director John Arnold remarks, "We just never have a surplus of funds. We really live from day to day."

Currently at Mitchell, student committees are investigating the University's program and considering the advantages and disadvantages of a joint program before making any decision.

Responsible for guiding the implementation of the program is full-time faculty member Roger Haydock. Thus far, Haydock's role has been one of following student discussions and keeping the aims of a legal aid clinic in perspective. According to Haydock, "A clinical program must be aggressive. It must go beyond interviewing and counselling. It must get involved in negotiation, litigation, and law reform."

While not willing to commit himself until all the facts are in as to a joint program with the University or a separate Mitchell program, Haydock sees lack of aggressiveness as one possible weakness at a joint effort.

According to Haydock, the overriding problem is the omnipresent bureaucracy of the state school and the resultant loss of independence for Mitchell students. Instead of giving students greater participation which Haydock feels they should have, supervision by the University may cut down on the extent to which the student is able to help his client, as well as limit the innovativeness of his approach.

For the legal aid program to be really effective, Haydock says it must encourage students to use their knowledge of the law in attacking problems brought to them by the poor, rather than forcing the students into the role of social workers.

When questioned as to whether he thinks the Mitchell students would have the time necessary to implement the organization and maintain continued functioning of a separate program, Haydock replied in the affirmative. He says many University students have jobs in their second and third years, and the students at Mitchell probably would be able to devote a very similar amount of time to a clinical program.

Whether Mitchell joins the University's legal aid clinic or starts one of its own, Haydock stresses the importance of expansion of geographical area. He says, "There is as yet no clinical legal aid program in St. Paul, and there certainly is a need for one. It would help the system of justice in St. Paul."

HAYDOCK

Faculty Profile

Pat Fitzgerald

by Davideen Manosky

Patrick W. Fitzgerald has been teaching at Mitchell almost as long as he has been practicing law. Fitzgerald originally taught constitutional law when he came to Mitchell in 1954. He now teaches Evidence to third year students.

A native Minnesotan, Fitzgerald grew up in Rochester and graduated from high school there in 1945. He then spent 15 months at the University of Idaho in the U.S. Naval Officer's Training Program. After completing his military duty, he attended Rochester Junior College and graduated from there in 1947, having spent one year at Creighton University. Upon graduation from Creighton University Law School in 1951, he became a practicing attorney and trial lawyer in Minneapolis

FITZGERALD

with his uncle, Ray Moonan. He later began his own firm, Fitzgerald, Fitzgerald, and Crandall, chartered.

Fitzgerald comes from a family of lawyers. Three of his uncles, Joseph, Ray and Paul Moonan were lawyers, as was his grandfather. His older brother, John, is a Judge of the First Judicial District of Minnesota, and his younger brother, Michael, is a partner in the present law firm.

Fitzgerald is currently President of the Hennepin County Bar Association, the state's largest local bar association. He served as secretary of the association from 1969 to 1971, and as President-elect last year. Fitzgerald and his wife, Veronica ("Coke"), live in Golden Valley with their five daughters and one son.

As a trial lawyer he most enjoys the competitiveness and caliber of the men he works with and against. He described his colleagues as "highly articulate, extremely intelligent and gregarious." In a "pressure-packed" courtroom, the most difficult part of his job, he says, is waiting for the jury to come in with its verdict.

"Courts are to serve the people, not the people to serve the courts," he believes. For that reason he would like to see one thousand new federal courts created "to give the people the right to be exposed to justice." Justice would also be more accessible to them. He noted, however, that the new courts should not be established "merely for the sake of expediency. Justice takes time." Pointing to the six-member jury which has been initiated to speed up verdicts, he felt that the jury may be too susceptible to the control of one influential member.

In the future Fitzgerald would like to see the implementation of prepaid legal insurance to serve the needs of middle-income America. He is also strongly in favor of the active recruitment and encouragement of women into the legal profession, and of more representation of the economically disadvantaged in civil law areas. Fitzgerald hopes to see all the students "as future members of the Bar Association, and to sit across from them at a conference table in a legal dispute over difficult litigation."

Student Opportunities

S.B.A. President's Report

One of the first things I noticed after beginning to take an active role in student government is that many Mitchell students aren't too clear about the opportunities open to them as members of law student organizations. Law students have an opportunity to participate in legal organizations on the state, local, and national level.

FRED FINCH

On the local level, as I am sure everybody knows, all Mitchell students are members of the William Mitchell Student Bar Association. This is the organization which sponsors school social events, speaker programs, the used bookstore, and various other school activities.

On the state level, William Mitchell students in the third and fourth years of their studies may elect to become student members of the Minnesota State Bar Association. Membership in the State Bar Association is done by voluntary enrollment in the fall of the year and costs one dollar for law students. In recent years the sole benefit of membership has been a subscription to the Bar Association's publication, **Bench and Bar,** a monthly magazine of news and articles of interest to Minnesota lawyers. Professors Green and Pirsig, who are members of the State Bar Association's student membership committee, have indicated that the State Bar Association desires to increase the amount of law student involvement in Bar Association Activities and Committees. One possible way in which this might be accomplished is to give Mitchell students academic credit for working participation in Association activities. I hope that student response to overtures by the State Bar Association confirms my belief that this could be a worthwhile program. Not only do students have a lot to contribute to the Bar Association, but the contacts made through this program could be invaluable when looking for a job.

On the national level the primary organizational outlet for student lawyers is the Law Student Division of the American Bar Association (ABA/LSD). Membership in the ABA/LSD is three dollars per year. Students may enroll at any time; blanks for this purpose are available in the school office or in the Student Bar Association's used bookstore.

The Law Student Division of the American Bar Association is entirely separate from the Student Bar Association except that as a recognized representative student organization, the Student Bar Association is entitled to send accredited delegates to the Law Student Division's annual convention. This year SBA vice president Robert Varco represented Mitchell at the Division's convention in San Francisco.

Membership in the Law Student Division offers both direct benefits and an opportunity to participate in a number of valuable Law Student Division activities. Among the benefits of the Law Student Division are a subscription to the division's magazine, the **Student Lawyer,** the opportunity to enroll in reasonably priced life and health insurance programs, and an ABA sponsored placement service. The **Student Lawyer** has progressed this year from being a showplace for student opinion of doubtful merit into a probing and critical legal magazine aimed at the law student.

For interested students, the Law Student Division has a number of committees and sections in which law students may participate. Some of the committees are organized on the eighth circuit level and give participating students an opportunity to work with members from other area law schools. Some LSD national committees are joint membership committees with the parent American Bar Association. Students have full voting memberships on some of these ABA committees, and I think it is significant that student votes made the difference on several committee recommendations to the recent ABA convention. Mitchell students are already members of some ABA/LSD committees — you could be too.

Mention should also be made of the memberships in the ABA's sections, which represent divisions of the ABA devoted to the practice and development of various special interests in the law. LSD members may become members of ABA sections for $3.00 per year. You then receive the publications of the sections of which you are a member. LSD members can also subscribe to the ABA **Journal** for a greatly reduced rate.

Bob Varco will be conducting a program on the Law Student Division for interested students sometime in November. You owe it to yourself to attend.

* * *

A conversation with a University law student this summer gave me a point of view about Mitchell that I hadn't really seen before. "You know," she said, "University law students really envy Mitchell students, 'cause you get all the good jobs before we even get a chance." Since I'd just been agonizing with several other Mitchell students about how to get a decent placement program started at Mitchell, I asked her what she knew that I didn't.

Her contention, in short, was that since Mitchell students had the opportunity to work full time before graduation we have the opportunity to lock up the good jobs in the Twin Cities area by going to work as law clerks or paralegals and then staying on after graduation. She also noted that clerking and paralegal work were far better preparation for the practice of law than either law review or legal aid clinic work.

You know, as one of the old fuddy-duddys in the senior class at Mitchell who has worked full-time all the way through school, I find I must agree with this attitude. Although the Student Bar Association is actively working to establish both a legal aid clinic program and some kind of law review program, Mitchell students shouldn't turn their backs on the kind of work experience that has long equipped Mitchell graduates to compete on an even basis with graduates of other schools.

If you are a first or second year student who is not working at present or who is working at a job that is unrelated to the practice of law I strongly encourage you to consider taking a job with a law firm or with a court during one or both of your last two years in school. Even if this means temporarily living with a lower salary level than you are accustomed to, the educational benefit is so significant that you might well come out money ahead in the long run.

If you think that you could benefit from the opportunity to work for a local law firm or for a court or other legal agency, check with your advisor or with the Dean.

I quit my job with a local computer manufacturing company to go to work for a local law firm as a paralegal. I feel that I have learned more about the law in six months of employment than in three years of school.

Maybe your job experience will be as meaningful to you as mine has been to me.

Guest Editorial

Committee Opposes Bar Exam

This year the Student Bar Association has established a Committee on Professional Qualification to deal with the problem of the Bar Exam. The Committee on Professional Qualification is composed of two co-chairmen and six directors. The committee will be working with the Minnesota State Government during the coming 8½ months, to have M.S.A. 480.05 and M.S.A. 481.01 amended to exclude the provision requiring a bar exam for graduates of Minnesota law schools which have been approved by the American Bar Association and Minnesota State Bar Association..

It is our position:

That the Executive, Legislative and Judicial branches of the Minnesota State Government, the organized bar, law students, and the general public have a continuing and substantial duty to insure, insofar as it is within their power, that persons entering the practice of law in Minnesota are competent and qualified persons.

That the governing body has the right and duty to set minimum standards for admission to the bar to insure that competency and qualification of its' members.

That with todays high standards for admission to law school, with the intense competition to stay in law school, with the complexity and difficulty of the subject matter, and with the intensity of law school testing, that any person who can successfully graduate from a school which has been approved by the American Bar Association and the Minnesota State Bar Association, ought not be required to take a test which was established in 1920 to insure competency and qualification to a profession which did not require its' members to have even a high school education.

That the Minnesota State Bar Exam is an anachronism which woefully fails to accomplish the purpose for which it was established.

That with today's modern educational programs and systems, any exam which might be substituted in place of the bar exam at the end of 3 to 4 years of law school, is superfluous, without purpose, and wholly indefensible in light of empirical data regarding teaching and testing methods, and cannot seriously be held by any reasonable man to protect the profession and the public from the incompetent and unqualified.

I would call on each and every student alumnus, and lawyer who feels as we do to contact your legislator and let your views be heard. If anyone comes into contact with any information which is relevant, please contact one of the members of the Committee, whose names are listed below, or leave a message in the Student Bar Association mail box in the school office and we will contact you. Also if you can spend some time, we will need some workers in the future.

The Committee on Professional Qualifications includes Steve Radtke and Don Horton, co-chairmen; Joe Beaton, Tom Miller, John Larson, Jan Olsten, Craig Litman and Ross Kramer, directors.

P.A.D. NEWS

Phi Alpha Delta hosted William Randall, Ramsey County Prosecutor, at a luncheon in Charlie's Cafe on October 20th. About thirty persons attended the event to hear Mr. Randall speak about his office and his experiences as a prosecutor.

Mr. Randall said he has found that the lawyers he hires do better if they have objectives in life other than just what they are being and doing. In reference to their career, he said he is interested in the extra-curricular and off-campus activities that a student participated in during school as a more important job qualification than academic excellence. Now that his office is under civil service he no longer hires lawyers personally but a board consisting of one of his staff, Dean Heidenreich and a person from civil service, hire his lawyers for him. He feels this has worked satisfactorily but is disappointed in the stability it has created. It is nearly impossible to fire an attorney and Randall doesn't think anyone should be content to stay at the bottom of the heap. He stressed that previously his good lawyers were movers and he didn't expect them to stay very long since they are the type of person who will take an opportunity to go on to more challenging jobs. He also criticized the rule of veteran's preference in civil service hiring. It not only gives the veteran preference over those with equal ability but also gives them absolute preference over everyone except other veterans.

When asked about his use of a grand jury for indictments, Mr. Randall stated three situations where he goes to the grand jury. The first use is prescribed by statute which requires a grand jury indictment for cases of first degree murder. Secondly, he will ask for a grand jury indictment in cases involving a criminal charge against a public official. This keeps politics out of law enforcement and since his office is an elected position the use of the grand jury precludes charges against him of political chicanery. Finally the grand jury will be called if there is conflicting evidence which requires an independent decision as to the credibility of witnesses, i.e.; where a child is the victim and only witness.

Mr. Randall discussed his problems with the state legislature and the Governor's Crime Commission. He told how it took his office three legislative sessions to get the legislators to change one word in a statute which required proof that a suspect had taken "and" driven "and" used a car in order to convict him. This allowed one man to steal a car by pushing it instead of driving it, and to escape conviction. Another one caught driving a stolen vehicle could not be convicted because there was no proof that he had taken "and" driven the car. The word "and" has now been changed to "or". Randall said that the Judiciary Committees of the legislature are made up of private attorneys

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ANALYSIS—Who Rules The Law School?

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full-time faculty. "I'd say that if we have one or two a year that's doing all right,' said the Dean on this subject; "I'm really not a great guy for calling a meeting if you don't need one." He indicated that whatever feeling he thinks he needs for making normal kinds of decisions he can get from informal contacts over coffee or lunch. He also emphasized that faculty meetings will be held whenever a proposal from the faculty or student body is put forth.

Needless to say, since there is no committee structure, there is no student representation on committees, except for one student on the scholarship committee starting this year.

For the student body, this lack of structure looms ominously in the area of dismissals for disciplinary, attendance and academic reasons. Fred Finch, the SBA president, is concerned about our nearly complete lack of knowledge of policy or procedure in these areas. He told me that "there is just no formalized statement of any kind of due process procedure, or any other kind of procedure for that matter, in the disciplinary situation." It is his impression that students are terminated for disciplinary and attendance reasons with some regularity, but he is unsure of the numbers. "I can't really say anything about the frequency with which they are terminated for academic or disciplinary reasons because nobody knows; all of a sudden there is an empty seat next to you when the role is called," he said. As far as he can tell, termination is accomplished without the student having the benefit of notice of the charges, a hearing, the right to confront hostile witnesses, or any other element of what the Supreme Court has termed 14th Amendment due process.

In spite of all this, the lack of a formal structure would be tolerable if a de facto structure had developed in its place. Unfortunately, this does not seem to be the case. The Board of Trustees has retreated from the position of power it seems to hold under the law, and the faculty in a similar way seems to have abdicated its traditional role of responsible autonomy.

My conversations with the Dean and Board president William H. Abbott indicated that the Board has no real contact with the school except through the Dean, and in any case, exercises its power in a narrowly restricted area. The Dean told me that the Trustees "know essentially what I tell them. There isn't, unless they take the initiative, really any opportunity for them to find out anything else." There is no evidence that the Board has in recent times taken the initiative to experience the school first-hand, although Abbott mentioned that this might be a worthwhile idea.

Although the school Bulletin indicates that it is the responsibility of the Board to establish broad school policies, in practice this jurisdiction is limited to such things as physical expansion and the prospects of a day division. The real concern of the Board is the financial health of the school. In as much as the Board must approve the budget, the Board might have a curriculum matter such as clinical education brought before it as a budget item. But is is only the extra expense of a curriculum decision which would make it a Board matter. The Dean emphasized that it is only natural for any Board to function at some distance from the real operations of a corporation. It does appear, however, that the Board is taking the initiative in securing land for physical expansion.

The faculty too has failed to assert itself. Part of the reason seems to be that the faculty members are quite content with the way things are going, but it should also be remembered that few faculty members devote their full attention to the college. The case of the part-time faculty speaks for itself, but more importantly, almost all of the so-called full-time faculty are heavily involved with other activities. Some of this involvement is volunteer service of a community or professional nature, but a great deal of it is simply other paying jobs.

The effect of all this is a modern management monarchy, or as Fred Finch put it, "absolute despotism tempered by Voltairian liberalism." Dean Douglas Heidenreich is the locus of almost all the decision-making power in the law school, the ultimate molder of our collective educations. My view is that the key to understanding the Dean is an appreciation of the seductive charm with which he walks the narrow line between benevolent persuasion and coercion.

It is clear that the Dean considers himself immediately answerable to no one. Fred Finch told me that "when he makes a decision about some aspect of the school over which he has power as dean or thinks he has power as conferred upon him by the Trustees, he considers that his decision if firm and final, and that he would consider it almost a personal affront if, for example, somebody would challenge his decision and appeal to the Board of Trustees." And the Dean's independence of the Trustees is evidenced by his own words. "If they don't like the way I am running the school then they ought to fire me," he said, "but they shouldn't look over my shoulder and say you didn't do that right, or you should change that rule, or change that policy, or rescind that action."

On the other hand, the Dean is, in Fred's words again, "rather proud, and justifiably so, of his ability to entertain and consider differing opinions when arriving at a policy decision." Fred goes on to sum up the Dean's good side by pointing out that the Dean "is a very reasonable man, has been in the position of a law school student at Mitchell, is politically adept, and I think many of his views are rather progressive in the sense that he tends to look upon participatory democracy as not an unblemished evil, and he believes that students actually do have good ideas, some of which could be of benefit to the law school." But as reassuring as the Dean's alleged liberalism may be to the student body, it remains a sometimes thing. As Fred rather kindly concluded, "I don't think that he lets his view that students are capable of self-government always influence his actions." Nevertheless, it should be noted that student lobbying and opinion can have a real effect on the Dean's decisions and actions, as evidenced by the encouraging moves toward clinical education now begun.

I think that I have accurately, if briefly, described the political reality of this law school. I am sure that the way things are run cannot account for each and every student complaint, much less the general malaise. I only suggest that as a methodology, a close and critical look at the quality of the decision-making process is a necessary step in the struggle for change. What happens then will be determined by the accuracy of our analysis and the seriousness of our criticisms and proposals.

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who are more concerned with fees from their defendant clients than with protecting the public from crime.

Randall also discussed what he sees as the public's growing discontent with the parole board's practice of releasing convicts who then commit more crimes, and further commented on the practice of his office of hiring private attorneys to handle long cases in order that the cases going through his office are handled in a minimum of time and no backlog develops.

The November luncheon has not been planned and may not be held because of the initiation of new members which will take place on November 11th. There are an estimated twenty-three new members and about five persons have indicated they will join before that time. After the initiation in the chambers of the Supreme Court, there will be a party for the members at the St. Paul Hilton Hotel. The December speaker luncheon is set for Saturday, December 9th. Dan Cody, who is a St. Paul personal injury attorney, will be the featured speaker and is bringing sample pleadings and complaints for the students to examine. The luncheon will be at 11:30 at Charlie's Cafe in Minneapolis. Everyone is welcome and reservations may be made with Harry Wingerd, 348-3623. Harry, who is P.A.D.'s convention justice reports that the District Conclave will be held at the Northstar Inn during the first part of February. The Conclave is for P.A.D. delegates from the Universities of Nebraska, Iowa, North Dakota, South Dakota, and Drake and Creighton Universities. The tentative schedule starts with a Casino Night on Friday to raise money for the cost of the Conclave. On Saturday there will be business meetings, a luncheon and a speaker program, as well as election of convention officers and selection of a '74 site. On Saturday night, the William Mitchell Law Wives will hold their annual Sweetheart Dance at the Northstar Ballroom provided by P.A.D. The Law Wives will provide the band and all students are welcome to the event.

Mitchell Student Heads New Police Unit

by Kay Silverman

Jack Vigoren, a third year student and member of the St. Paul Police Department, is the first patrolman to be on the Department's new Field Referral Unit. This two-member unit was started last August by Deputy Chief Griffin at the suggestion of City Attorney Ken Fitzpatrick. The unit consists of a police sergeant and one patrolman who have an office in the City-County Courthouse and who act as a liaison or screening unit between the police and the city attorney's office.

Previously when a patrolman was called in on a domestic complaint or other dispute and the rights of the parties were not clear or there was a disparity in witnessess' stories, or perhaps no remedy was apparent, then the police would refer them to the City Attorney which then spent valuable attorney's time investigating complaints of barking dogs and other miscellaneous problems. These situations are now funneled through the Field Referral Unit who decides if there is an ordinance or statutory violation and if probable cause exists to draw up a warrant.

The unit in addition to its investigatory function also refers people to legal aid, the Mental Health Center and other appropriate agencies, and often attempts a conciliation between the disputing parties.

One handicap the unit has is lack of an official car. This makes on the scene investigation impossible and makes them depend on telephone conversations and oral conversations with persons who can come to their office. Vigoren hopes they will be assigned a squad car in the near future.

LOIS, FLORA, ANGEL AND AUSTRA

Four Fascinating Women

by Jean Schleeh

Those four friendly faces of the William Mitchell office staff, those able women who answer student questions on admissions, registration, tuition, loans and jobs, and who patiently cater to faculty whim by producing volumes of mimeographed materials, are more than members of the staff. They are also interesting people.

The group includes a musician and teacher from Sarles (pop. 500), North Dakota, a former basketball star turned opera buff, a native St. Paulite who has kept in touch with her Rumanian heritage and the first person I've ever met who gets up at five in the morning for the fun of it.

Lois Greiner, office manager and the Dean's right hand, has had the most diverse working career of the four. A graduate of the University of North Dakota in music and English, she taught for close to ten years in North Dakota, Minnesota and Washington and then became executive secretary for the Camp Fire Girls in California. Homesick for Minnesota, she returned to become a personnel counselor and ended up as public relations director for the state bar association, her first contact with the law. From there it was a natural switch to Mitchell where she's been for nine years in a job which combines many of the things she liked best from her previous work. "I had always enjoyed teaching. I like the academic atmosphere and really enjoy the contacts with the students."

From the perspective of nine years, she has noticed more young students, more single ones and fewer full-time workers. Much of this trend she attributes to the job market. "Many can't find jobs and figure they might as well go right on, and we're just deluged with loan applications." Lois, by the way, is the one to see if you need information about either loans (up to $1,500) or jobs.

She's also observed that single students do less well at Mitchell than marrieds. When she finds out one has just gotten married, she congratulates him on furthering his law school career. "It seems to help a great deal when they don't have to date anymore."

Other changes she's noticed in recent years include an emphasis on "more courses pertinent to the world today — poverty law, environmental law, school law." She credits the Dean with this trend.

The ex-music teacher is a regular patron of the Minnesota Orchestra and attends all the Guthrie plays. For her own enjoyment she now plays the organ instead of the piano explaining that she's "lost the touch" and it's less noticeable on the organ.

Long since a confirmed city person, the lady from Sarles still confesses occasional nostalgia for the clean air and glorious sunsets of the North Dakota plains.

Austra Pelude was a member of the Latvian national basketball team which won the all-European championship in 1939. She is also a graduate of the University of Riga law school. All of that was before the seven-century history of German and Russian occupation of Latvia was telescoped into the six terrible years of World War II.

Like many Latvians in 1944, she and her husband, also a graduate lawyer, chose deportation by the retreating German armies rather than the impending occupation by the Russians. "At least there was hope in Germany of liberating armies from the West, but where was there to go from Siberia?"

The years of DP camps ended in 1949 by special act of Congress permitting immigration to the United States for thousands of refugees of the war, but the insecurity lasted longer. "I was ashamed to walk on the street. I felt it was written on me that I was a refugee, nothing, a piece of dust."

She and her family settled in St. Paul and gradually rebuilt their lives. Not surprisingly, she sought out work connected to the law. From her first job at West Publishing Co., she came to William Mitchell in 1958, making her the senior member of the office staff. "I'm like an old inventory here."

She works evening hours and is the one on the staff most often in the office when classes are in session. With a twinge of regret she says she was just not aggressive enough to re-enter law school earlier, but now wishes she worked daytime hours so she could sit in on classes. "Every year at commencement, I'm the one who cries."

Her main responsibility is working for the professors. She is responsible for the reams of hand-out materials every student knows so well. "There's more each year. First one got the idea we could do materials for him, and now we're swamped. They all want them."

In the last three years she's noticed that students are getting more involved with the school and that student groups are more active. "Many now seem to have more time on their hands" in contrast to a time when perhaps 95 per cent worked full-time and had little time for anything more but study.

Another change is the increase, particularly in this year's freshman class, in the number of women law students. She applauds the trend and attributes it at least in part to Women's Lib.

On the side, Austra admits to being "just a nut on opera" and spends most Saturday afternoons taping the radio performances from Lincoln Center.

Flora Tarziu, whose name means 'tardy' in Rumanian ("a name I try not to live up to"), is the office bookkeeper. At Mitchell for 10 years, she has at her fingertips all variety of school statistics.

In 10 years she's seen enrollment grow from 381 to 669, average student age decline from 28 to 22 and tuition increase from $450 to $950.

If you're one of the daytime hangers-around the school, you've probably met this pleasant lady. Otherwise you probably haven't — unless you've been delinquent with tuition payments. In that case, you've gotten a call from Flora with a friendly reminder that you've overlooked the due date. "I never call them delinquents though," Flora is quick to add.

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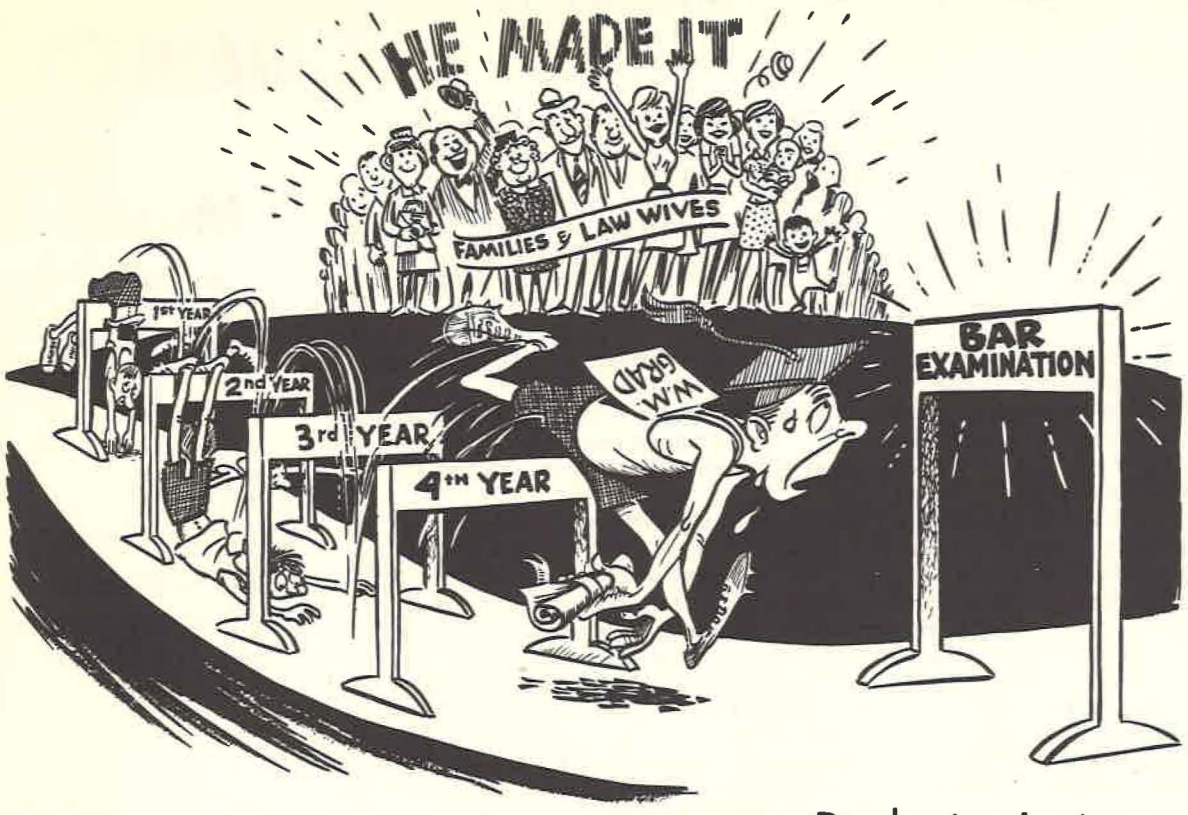
A Big Hurdle Ahead



NOTICE:

If you consigned books to the used bookstore more than one year ago, and your books, for any reason, have not yet been sold, you must reclaim them on or before Saturday, November 18, 1972. After that date, such unsold books will be disposed of by the bookstore management as it deems proper.

The used bookstore will be open on November 18 from 9:00 a.m. to 3:00 p.m. If you are unable to reclaim your books at that time, please notify the managers of your intention to reclaim by a postcard addressed to the Used Bookstore in care of the school.

Right On! To What?

by John Griese

When starting law school, which seems like a century ago, a friend sent this writer a news clipping on the "new law student." Articles of a similar nature were prevalent at that time. By far the most common characteristics used in these articles to describe these aspirants were "liberal" and "idealistic." Further comments suggested that many of these people were entering law school in order to get into a field where they could effectively do what liberals and idealists are known to do, such as, work for the poor, the oppressed, etc.

Recently, a survey appeared which showed that there has not been any significant change in the direction that law graduates take when they emerge from school. That is, about the same percentage are going to the large law firms, corporate legal departments, insurance companies, and other "good" positions.

One could say from this survey that the convictions and ideals of the "new law students" were not very deep or serious. On the other hand, maybe they had little choice.

The truth is that the world is not waiting with open arms to pay the liberal graduate to do his thing. Funded programs involving legal services and leadership are few. Job openings in the programs which do exist are scarce. What this means is that once the few openings in MPIRG, legal aid, the public defender system, MECCA and a few others are filled, the young lawyer hoping to do something a little different is pretty much on his own. A problem arises because the law graduate is often not prepared for this event. Thus, to make a living, it is on to the big firms, the corporations, and the insurance companies. This move is only natural because it is what he was prepared for in law school. (He was also trained to take the bar exam but one can hardly make a living at that exercise). Of course, there are some other alternatives: politics, some sort of private practice and involvement with group legal services, to name a few.

The foregoing is this author's simple explanation of why the percentages mentioned above do not accurately reflect the "new law student." One suspects that the future will not be much different. First, it seems unlikely that there will be additional funds for more liberal type legal programs. In fact, there will probably be less funds. The Agnew backlash has taken its toll in cutting, or at least stabilizing, federal financing of many such programs. Ramsey County legal Aid and other OEO funded programs have been stuck with the same budget for the last two years and will have to continue with it for the next two years. With the President's newly-acquired power to cut the budget where he sees fit, it would seem that any legal aid type programs funded by the Federal government will become even more expendable. Secondly, this writer suspects that law schools will continue to train its students for the big firms, the corporations, the insurance companies and the bar exam.

It is this writer's view then, that what awaits the "new law student" described above, is a choice between compromise and real economic sacrifice. Once he has chosen to forego the economic opportunities, his occupation opportunities are limitless.

Replevin Actions Have Decreased

On June 12, the U.S. Supreme Court struck down the pre-judgment replevin laws of several states. Those laws, like Minnesota's, permit a creditor to employ the assistance of a governmental office to seize merchandise from defaulting buyers without a prior judicial hearing.

The Court wrote that such laws "fly in the face" of the constitutional right to be heard, which is basic to the due process of law assured by the 14th Amendment.

Since that time, the Hennepin County Sheriff's Office has assisted in three repossessions. Up to that time they received about 25 calls per week for such assistance.

While few lower court judges or lawyers are inclined to disagree with the decision, they are confused about several matters which have arisen because of it.

One of those pertains to what the state of the law now is, as to repossessions which do not involve government officials. The Supreme Court dealt only with replevin, and at the present time, repossessions by private agencies are continuing as before.

Another problem involves the procedure to be followed in replevin actions. The Court did not give any indication of the form which the required notice should take, how far in advance it must be given, or what kind of a hearing is needed.

As a result, some states have chosen to ignore the ruling until a similar case comes before their own courts, or until their legislature rewrites the replevin laws. In Minnesota, however, officials are complying. Several months after the ruling, U.S. District Judge Earl Larson issued a ruling which declared Minnesota's replevin law unconstitutional.

A rough draft of a bill concerning replevin and private repossession has since been drawn up for committee consideration. It would limit repossession by private parties, except in unusual circumstances, until after some sort of hearing has been held.

As far as procedure is concerned, most Minnesota courts are apparently employing the existing "show cause" procedure which requires that a creditor secure an order from the court which orders the alleged debtor to appear before the court and show cause why the property should not be replevied.

The timing of such a hearing varies between courts, but seven or more days notice are usually required before a hearing will be held.

THE NOT SO FREE PRESS

by Stephen R. Bergerson

"The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate for a moment to choose the latter."

—Thomas Jefferson
Letter to Col. Edward Carrington (1787)

"In the First Amendment, the founding fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press was to serve the governed, not the governors. The government's power to censor the press was abolished so that the press would remain forever free to censure the government. The press was protected so that it could bare the secrets of government and inform the people."

—Justice Hugo Black
United States Supreme Court
In ruling with the majority on the Pentagon Papers (1971)

Despite the traditionally hallowed and jealously guarded constitutional right of freedom of the press, it is difficult to not observe daily evidence that that right is being chipped away. What is equally noticeable and frightening is that quite a number of people think that it's not a bad idea, or, in the alternative, don't really care.

In Gravel v. United States, the court dealt with the right of all citizens to be well informed about events of public importance. In a 5-4 decision, the court imposed grave limitations on that right. The general issue was whether the protection afforded to Senators by the Speech and Debate Clause of the Constitution extends to Senators' aides. The Clause does protect Senators and their aides from liability from any matters pertaining to their duties, said the court. Accordingly, Senator Gravel and his aide were within legal limits when they introduced portions of the Pentagon Papers into the public record by reading them to a specially-convened evening meeting of his Subcommittee on Buildings and Grounds, and when they later had the records published.

Just as importantly, however, the court held that the clause does not protect Senators or their aides from being questioned about matters "relevant to tracing the source of . . . documents that come into the Senator's possession . . ."

Any attempt to analyze the rationale of Gravel is an exercise in frustration of logic, insofar as protection of free speech and the public's right to know is concerned. By immunizing the Senator from sanctions for informing the public, but at the same time making him answerable to the Executive Branch, via a grand jury, as to where he secured the information, the court has imposed a rule which will deter those who have such information from supplying it to the Senator in the first instance.

In Branzburg v. Hayes, the court dealt with the issue as to whether grand juries could compel newspaper reporters to testify in detail about the sources and further facts of published news stories describing allegedly criminal conduct. In another 5-4 decision the court agreed with the government's contention that reporter's have the same duty as other citizens to respond to inquiries by grand juries about the commission of crimes, thus confirming their holding in the celebrated Caldwell case of last spring.

It should be recognized that journalists must, in order to secure especially important information, give a guarantee of confidentiality. It should also be recognized that the public is the chief beneficiary of the journalists' freedom.

In view of decisions such as these, it is not difficult to understand why even the boldest and most noble men in government are increasingly reluctant to provide information to reporters. They recognize that the reporter may eventually be given a choice of disclosing his sources or of going to jail.

Even more recently, the Chief Judge of the Federal District Court in Washington, D.C., issued an extraordinary order which enjoined all parties involved in the Watergate trial from publicly discussing the case. Although he subsequently eased the ruling to exempt candidates and the press, the fact remains that both were originally included in the order. Furthermore, the amended order covered the Justice Department, the FBI, the seven defendants, their attorneys, witnesses, potential witnesses, alleged victims, and all persons acting for or with them, and, if taken at face value, would have prevented nearly every person who knew anything about the case from discussing it with reporters.

The free flow of information in a democracy can be effectively disrupted by means other than preventing newspapers from publishing a given story, or by intimidating reporters with jail sentences. Richard Nixon has demonstrated that it can be done by deliberately and systematically avoiding the press. During the presidential campaign, Nixon absolutely stifled the sort of dialogue that has historically been the heart of a campaign.

He has shown that he regards reporters as instruments of his policy rather than as servants of a society that lives by accurate information. More than that, he has assumed an attitude of hostility towards the press. The result is that the people get primarily the information that the government wants them to.

This, apparently, is what Nixon and Agnew had in mind all along. It is interesting to note that they unleashed their first brutal attacks against the news media at a time when they were in politically quiet water. In retrospect, there appears to have been a method to their madness: show the news media to be propagandists, inpugn ***their*** credibility, put ***them*** on the defensive.

In view of decisions such as these, and the techniques of calculated evasion, it is abundantly clear that the public's right to know about what is going on in their government has been redefined.

One fact must be recognized. Nixon and Agnew have won, their plan has succeeded. Who won, however, is not as important as who lost. In defeating the press, the democratic system and the American people have been robbed of something of fundamental importance.

Those who do not think that it is such a good idea now pin their hopes on new federal legislation to protect newsgathering. More than two dozen such bills are presently before Congress. They range from granting unqualified immunity to reporters who wish to protect their sources, to granting such immunity only in limited cases. When considering such legislation, it should be kept in mind that the immunity is not a special interest for the welfare of the press, but legislation which is in the public interest, for the welfare of a democratic system of government.

Minnesota's Environmental Rights Act—What is it?

by Rick Glanz

With the realization that the old common law theories are inadequate for the protection of our natural resources, the 1971 Minnesota Legislature has declared "Its policy to create and maintain within the state conditions under which man and nature can exist in productive harmony . . . to provide an adequate civil remedy to protect air, water, land and other natural resources located within the state from pollution, impairment, or destruction . . ."[1]

The legislature fittingly entitled M.S. Sec. 116B., the "Minnesota Environmental Rights Act," a title which was appropriate for several reasons. First, it creates **rights** in all persons to "the protection, preservation, and enhancement of air, water, land, and other natural resources located within the state." Secondly, it creates **rights** in the environment itself by declaring that "each person has the responsibility to contribute to the protection, preservation, and enhancement thereof."[2]

The Minnesota Environmental Rights Act, "E.R.A.," has potentially established Minnesota as the front runner of all states in balancing the need of a clean environment with economic growth—two areas which need not be mutually exclusive. The E.R.A., which is quite lengthy and ambiguous in parts has not yet been passed upon by our Supreme Court, so much of its substance remains uncertain. However, there is an excellent note in 56 Minn. L. Rev. 575, which analyzes the E.R.A. and suggests some possible and likely interpretations. It has even been suggested by some persons that because the E.R.A. is so novel that it will take many years of judicial interpretation for it to achieve its full purpose, especially at the district court level where much of the responsibility rests.

The E.R.A. is divided primarily into three categories:

(1) "Section 3"[3] which permits civil actions against persons for "pollution, impairment, or destruction of the air, water, land, or other natural resources located within the state" and enjoins the violations or likely violations of environmental standards;

(2) "Section 9"[4] which allows intervention by any person into administrative proceedings or judicial reviews thereof where the action or review involves conduct which "has caused or is likely to cause pollution, impairment, or destruction of the air, water, land, or other natural resources located within the state;"

(3) "Section 10"[5] which allows civil actions to be brought by any person against the state and its agencies, to challenge the adequacy of environmental quality standards or regulations.

Civil actions based upon Section 3 promise to provide the real volume of cases under the E.R.A. This section allows all "persons," used in its widest definitional sense,[6] the right to maintain a civil action against any person, with the exception of family farms and farm corporations, for conduct which is adversely affecting the environment.

However, unlike common law civil actions,[7] Section 3 provides only for declaratory or equitable relief and not for damages. This measure was seemingly adopted to increase the E.R.A.'s chances of legislative passage and to insure the court's protection of the environment rather than awarding monetary compensation for environmental damage.[8] This is not to say the E.R.A. may not be joined with common law claims for damages for the E.R.A. does not impair such rights.[9]

Another interesting aspect of Section 3 is that all persons have standing to maintain a civil action and need not show an independent legal right which has been violated. Standing has always been a problem where there is an aesthetic, conservational and recreational interest to protect and not a direct economic harm; however, the E.R.A. does away with this barrier.[10] This crucial provision incorporated within the E.R.A. may be especially interesting to civic groups, environmental clubs or perhaps graduating law students who have alot of time and very few clients to spent it on. It should be recognized, however, that suits of this nature are extremely expensive due to discovery and expert witness costs, which are not awarded under the E.R.A. Each party must bear the costs of his own suit.

Although standing is not a barrier to bringing a Section 3 action under the E.R.A., one cannot join to it common law actions unless standing is properly acquired under those actions. However, if the Plaintiff has a legally protected interest that has been injured by the Defendant's conduct, then all the actions may be joined together thereby entitling the Plaintiff to an injunction under the E.R.A. and damages under his nuisance or other common law claim.[11]

Before initiating a Section 3 action, the Plaintiff's attorney should be wary of several exceptions. First, a Section 3 action may not be brought against a family farm, a family farm corporation or a bona fide farmer corporation.[12] Secondly, a Section 3 action may not be brought against any person "solely because of the introduction of an odor into the air."[13] Thirdly, an action may not be brought against a person who is acting "pursuant to any environmental quality standards, limitations, regulations, rules, orders, licenses, stipulation agreements or permits issued by the pollution agency, department of natural resources, department of health or department of agriculture."[14]

The E.R.A. seems to have been authored with the idea of increasing the power of the courts in the area of environmental protection. This seems incongruous to the adage that agencies are better suited to determine technical problems but Professor Sax of the University of Michagan Law School, offers several reasons: First, as compared with governmental departments and administrative agencies, the courts are "outsiders" and less amendable to political pressures than agencies. Secondly, environmental matters take up a small part of a judge's time and he therefore would be elected without substantial pressure group influence and would have less of a tendency to strike some kind of balance between the various parties that are involved in such cases. Finally, the judicial process offers citizens a chance to initiate actions and not merely to participate in agency hearings.[15]

Once the Plaintiff has brought his Section 3 action, the court is not left helpless to decide all the technical questions which might arise. A coordination arises between the courts and agencies, and remittance of the case back to the Agency would be required if the action is an alleged violation of an environmental quality standard, permit or the like, but in other situations, remittance would be available, but not required.[16]

After the plaintiff has the defendant in court and after the plaintiff has made a prima-facie showing the conduct of the defendant violates or is likely to violate some environmental quality standard or the like, the dedefendant may rebut by submission of evidence to the contrary. Also, the defendant may show by way of an affirmative defense, "that there is no feasible and prudent alternative." These two elements of available technology and financial responsibility were interpreted in the case of Citizens to Preserve Overton Park -vs- Volpe.[17] In that case, a group of citizens of Tennessee were attempting to stop the construction of a highway through a park. It was held that an alternative route, which would not require the use of the parkland in question, is "feasible" unless its use would be against the principles of sound engineering and "prudent" unless its' use involved cost or community disruption . . . of extraordinary magnitudes.

Hopefully, Minnesota Courts will adopt similar interpretations of "feasible" and "prudent" but the E.R.A. contains additional language which is even more stringent: "Economic considerations alone shall not constitute a defense hereunder."[18] This language seems to indicate that if there is any other technical means of abatement possible then that means must be adopted.

If the Defendant enters into negotiations with a state agency voluntarily or if they are ordered into the agency by the court pursuant to either M.S. Sec.15. 0416 or M.S. Sec. 15.0425 of the Administrative Procedure Act, the plaintiff, for all practical purpose, loses his right of a civil action under Section 3. This is because conduct taken pursuant to an environmental quality standard, order, stipulation, agreement and the like is a defense to a civil action.[19] However, this is not to say the plaintiff is without a remedy. Under Section 9 any person has a right of intervention into administrative proceeding and judicial reviews thereof upon the filing of a varified pleading asserting that the proceeding involves conduct which has caused or is likely to have an adverse affect on the environment.[20] In such proceedings, the agency is required, when considering the alleged impairment, any "feasible and prudent alternatives," economics alone not justifying the conduct.[21]

It is interesting to note that the Minnesota Pollution Control Agency is faced with a different standard when reviewing such conduct under this section than under M.S. Sec. 116.07(6), which states: "In exercising all its (P.C.A.) powers the pollution control agency shall give due consideration to . . . economic factors and other material matters affecting the feasibility and practicability of any proposed action. . ." Our "Interpretation of Statutes" law states when two laws are in conflict, the law latest passed will prevail over the earlier one.[22] Therefore, the P.C.A. should follow the standard as set forth in the E.R.A.

There is one practical consequence about the operation of the P.C.A.'s administrative procedure which serves to defeat the purpose of Section 9. Undercurrent P.C.A. adopted rules,[23] a plaintiff to a lawsuit is not able to participate in informal negotiating hearings involving the defendant's conduct. This means if the plaintiff brings a Section 3 civil action against the defendant for conduct which is or is likely to adversely affect the environment or for conduct which is or is likely to violate an environmental quality standard, all the defendant need do is retreat into the P.C.A. for a variance or a stipulation. Although the general public is permitted to participate in the negotiating hearings, the plaintiff is not. Therefore, the person who has demonstrated the primary concern and who may be suffering the greatest economic harm resulting from the defendant's conduct is without a remedy, except for a Section 10 action.[24] From an operative standpoint, it is in the informal hearings that the parties negotiate the stipulation or variance, and adoption is only a formality at the public meetings held subsequently. This procedure is not logical when one considers that it was only the Plaintiff's concern which forced the Defendant into the P.C.A. in the first place.

If the Plaintiff, or any person for that matter, is unsuccessful under Section 9 or has failed to act within the prescribed time, then only a Section 10 action[25] remains. This section entitles any person to maintain an action in district court for "declaratory or equitable relief against the state or any agency or instrumentality thereof, where the nature of the action is to challenge an environmental quality standard, limitation, regulation, rule, order, license, stipulation agreement."[26]

However, under this section, the plaintiff has a much higher burden of proof then the prima-facie showing under Section 3; he must show the permit, or environmental standard to be "inadequate to protect the air, water, land, or other natural resources located within the state from pollution, impairment, or destruction."[27]

Again, as under Section 9 of the E.R.A., the court must allow other parties the right of intervention. Section 10 also demonstrates the coordination of the courts and the state agencies when it charges that the court **shall** remit the parties to the agency who promulgated the environmental quality standard for findings. However, as in Section 3, the court retains jurisdiction over the entire matter.

Overall, the E.R.A. is a strong piece of environmental legislation. Its policy reflects a strong legislative intent to provide more protection for the environment than the common law theories and P.C.A. afford.

However, "this new type of legislation is based upon the premise that the courts will be more receptive to increased protection of natural resources than are administrative agencies which are set up to pursue that goal. To the extent this is an accurate evaluation, the E.R.A. will provide for increased protection of the environment."[28]

FOOTNOTES

1. MINN. STAT. SEC. 116B01 (1971)
2. Id. (1971)
3. MINN. STAT. SEC. 116B.03 (1971)
4. MINN. STAT. SEC. 116B.09 (1971)
5. MINN. STAT. SEC. 116B.10 (1971)
6. MINN. STAT. SEC. 116B.02 (2) (1971) "Person means any natural person, any state, municipality or other governmental or political subdivision or other public agency or instrumentality, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, and any other entity, except a family farm, a family farm corporation or a bona fide farmer corporation."
7. In Minnesota private nuisance actions are statutory. MINN. STAT. SEC. 561.01
8. 56 MINN. L. REV. 575 at 578
9. MINN. STAT. SEC. 116B.12 (1971)
10. See Sierra Club vs. Hickel, 433 F.2d 24; cf. Isaak Walton League vs. Macchia 329F. Supp. 504. (1971)
11. MINN. STAT. SEC. 116B.12 (1971)
12. See note 6 Supra.
13. MINN. STAT. SEC. 116B.02 (5) (1971)
14. MINN. STAT. SEC. 116B.03 (1) (1971)
15. J. Sak, Defending the Environment (1970) in 56.MINN. L. REV. 575 at 604.
16. MINN. STAT. SEC. 116B.08 (1971)
17. 401 U.S. 402 (1971) reversing 432 F. 2d 1307 (6th Cir.), and affirming 309 F. Supp. 1189 (W. D. Tenn. 1970)
18. MINN. STAT. SEC. 116B.04 (1971)
19. MINN. STAT. SEC. 116B.03 (1971)
20. MINN. STAT. SEC. 116B.09 (1) (1971)
21. MINN. STAT. SEC. 116B.09 (2) (1971)
22. MINN. STAT. SEC. 645.26 (4) (1941)
23. Said P.C.A. administrative rules are partially based on statute. MINN. STAT. SEC. 116.075 (1); "All hearings conducted by the pollution control agency pursuant to this chapter shall be open to the public, and the transcripts thereof are public records."
24. MINN. STAT. SEC. 116B.10 (1971)
25. Id.
26. MINN. STAT. SEC. 116B.10 (2) (1971)
27. MINN. STAT. SEC. 116B.10 (1) (1971)
28. 56 MINN. L. REV. 575 at 639.

NOTICE

All students who feel they may be interested in beginning a law review at William Mitchell should indicate so to Kay Silverman or Stephen Bergerson, by calling 645-4021 or 823-2212 respectively.

CHRISTMAS DANCE

FRIDAY, DECEMBER 8

Live Music

TIME: 8:30 P.M.-1:00 A.M.

PLACE: 2424 Nicollet Ave., Mpls.

American Legion Hall

PRICE: $2.00 per person

FREE BEER & FOOD

DOOR PRIZES

WINE & COORS BEER

Sponsored by Wm. Mitchell Law Wives

FASCINATING (continued from page six)

"If you have a special probelm with money," she advises, "come and talk to us before the due date. The Dean is very understanding."

She enjoys the school's relaxed working conditions. "When they say you're joining the William Mitchell family, I think it's really true. It's a pleasant family team."

The students here are more serious-minded and determined than most, she feels. "You have to be. Not everyone can submit to this."

Like Austra, Flora too has an East European background. She and her husband are first-generation Americans of Rumanian descent. Both were born in St. Paul and spoke Rumanian at home. The Rumanian community here is very close, she says, mainly through the Rumanian Eastern Orthodox Church.

This background has contributed in part to at least one of her children's careers. A daughter developed a strong interest in Romance languages and now teaches Spanish at the University of Indiana.

Her family has kept contact with relatives in Rumania, and she has visited them twice in the last six years. In that time, she says, conditions have improved noticeably. The regime is less strict and people are more relaxed and better off.

In her time away from Mitchell, she enjoys baking, knitting and crocheting.

Angel Barker, another St. Paul native, is the junior member of the staff although she has been here four years. She works the daytime hours which means you may not have met her if you're among the full-time workers.

A warm, out-going person, Angel claims to have been painfully shy, an allegation hard to believe when you meet her. She loves the public contact in her job and says it's helped her overcome shyness.

Her major responsibility is in admissions, as Jack Davies' assistant. In her four years, she's noticed the increasingly high grades and LSAT scores of applicants. She thinks highly of the average Mitchell student whom she describes as "hard-working yet still managing to have a smile." "It takes a tremendous effort to get through. You have to really push yourself and have the proper mental set to work all day and still have enough energy to get through the nights."

By contrast, she sees herself as a day person, one who enjoys getting up at 5 a.m. "It's a beautiful, peaceful time," she says, "and you don't have to talk to anyone." I decided just to take her word for it, but it's an understandable attraction for her. Recently divorced, she describes her present living situation with her 6-year-old son, a girlfriend, a sheep dog, a cat and three kittens as "a happy, noisy menagerie." If you'd like to give a good home to a cute kitten of solid alley stock, see Angel. Anyway, it's a good excuse to meet her.

She was originally attracted to Mitchell when she met the Dean and several other faculty members at her parents' Highland Park delicatessen where they were regulars. She likes them just as much in the working environment at Mitchell. "It's a jolly group of close, concerned people. You don't feel like an anonymous person who sits at desk A."

Her divorce, however, has given her her first sour view of lawyers, and, not surprisingly, she's an advocate of no-fault divorce. "Why create dispute where there is none?" she asks.

Angel, who describes herself as a late bloomer, had finished three years at the University and now plans to take night credits to complete her degree. She also confesses to a secret desire to learn to play the violin.

All told, they are an amiable, competent and interesting group who deservedly have the confidence of the Dean and the faculty. I recommend getting to know each of them better.

Robert Varco

Varco Appointed Lieutenant Governor

Robert Varco, junior at William Mitchell, has been appointed lieutenant governor of the Eighth Judicial Circuit of the American Bar Association's Law Student Division (LSD). Varco is also Mitchell's LSD representative.

Frank Zetelski, of the University of Missouri Law School, who is Governor of the Eighth Circuit, made the appointment.

As Lieutenant Governor, Varco will be responsible for co-ordinating LSD activities, and directing special projects in regard to all law schools in Minnesota, North Dakota, and South Dakota. He is especially responsible for getting the word to law students about the advantages available to them, and the impact they can have through the LSD.

In accepting the position, Varco pointed out that the schools and the students of a school from which an LSD officer comes usually have a greater chance to get more directly involved in LSD programs and activities.

He thinks that many students at Mitchell are doing themselves a disservice by remaining uninformed as to what the LSD has to offer them. He noted that a great deal of enthusiasm has been generated by students who do realize what the LSD really is.

Women Lawyers Meet

On November 4, a tea was held in honor of upper-class women law students by the Minnesota Women Lawyers, at the Campus Club on the University of Minnesota. A panel of four women lawyers discussed their profession and the problems peculiar to women lawyers.

Doris Huspeni, a Michigan law graduate, is an Assistant Public Defender and mother of five children. She praised her job for its challenge, its contribution to society and its flexibility for a woman whose first job is that of wife and mother.

Donna Johnson, who went to law school in Chicago, subsequently came to Minnesota fourteen years ago. She also has five children. After practicing law from her home for ten years, she now has a full-time housekeeper and has an office in Minneapolis. She is president of Big Bear Trucking Co., which resulted from her volunteering for a project for unemployed Blacks who wanted to start their own trucking firm. She urges women to take part in volunteer work as a way to meet people and break into business.

Diane Egan has a general practice in North Minneapolis. She thinks a general practice is the most flexible and varied work a lawyer can do, but regrets that you can never get to be an expert in any given area.

Patricia Belosis, who works for a seven-man firm in Minneapolis, told the students that the best experience they can get is clerking for a judge. It enables you to meet a large number of attorneys and have the advantage of formulating opinions about their practices by reading the briefs which they submit to the court.

The Minnesota Women Lawyers is a new organization which was created after the dissolution of the Phi Delta women's legal association. Membership is open to all women attorneys. Dues are $5.00 per year.

How The Used Book Store is Used

by Larry Meuwissen

The SBA Used Bookstore recycled approximately $4,500.00 worth of books this fall. Checks totaling $4,-030.00 were paid to 142 students. No count was made as to the number of buyers, but throughout the buying period, supply never really caught up with demand.

For those who make proper use of it, the Used Bookstore provides a needed service, but there appear to be three classes of students which undermine its effectiveness: First, there is the pack rat. The student who keeps his esoteric anthologies of legal scholarship (usually bought new) either as assurance that he did learn something or as a reminder that he didn't. This person is likely to express a belief that his casebooks will be useful for bar exam study. Next there is the commensalist who either hoards his books or sells them without the aid of the Used Bookstore, and then looks to the Used Bookstore to supply his needs. This person appears to think the Used Bookstore manufactures used books. While these first two species may be only misguided, the third group is truly villainous.

The members of this group are the parasites who wait near (sometimes inside) the door of the Used Bookstore to grab a customer for their books. These persons must think that the people operating the Used Bookstore have nothing better to do with those September Saturdays and evenings than to attract customers for them to steal. Insult is added to injury when the same person then tries to buy the books he needs from the Used Bookstore.

Despite these problems, the Used Bookstore is providing better and prompter service, and with the cooperation of the student body, it will continue to improve.

Legal Briefs

by Margaret Leary

Prepaid legal care may soon become a reality in Massachusetts, where the Bar Association is studying a plan similar to Blue Shield medical coverage. However, the legal service would not be subject to the same kinds of regulation as other insurance, since it would be administered by a nonprofit corporation. Pennsylvania and Louisiana are also considering such plans, which would increase the demand for lawyers.

* * * *

Further increase in demand for attorneys throughout the country will result from the Supreme Court's decision in Argersinger v. Hamlin, which held that a defendant facing a possibility of any jail sentence has the right to free counsel if he can't afford to pay for it. Although Minnesota's statewide public defender system has provided such counsel more effectively than do many other states, not all areas are covered. A more difficult problem will also arise: the competency of counsel, when public defenders and legal aid societies must increase their caseload without a corresponding increase in income.

* * *

To help smooth urban housing problems, the city of Boston has formally opened a Housing Court, believed to be the first judicial body in the nation dealing exclusively with tenants and landlords. Created by the Massachusetts legislature a year ago, the objective of the court is to bring tenants and landlords together to resolve their difficulties. The court will hear criminal cases as well as suits at law and in equity.

* * *

A summary of developments in the recent attempt by some members of the American Bar Association to pre-determine the character and fitness of law students appears in the Sept. 1972 issue of Student Lawyer. The proposal was to develop a test for all first year law students that would identify those significant elements of character that may predictably give rise to misconduct in violation of professional responsibilities. The summary includes the Law Student Division's response, a letter from the chairman of the committee which made the proposal, and a précis of an article on the mathematical feasibility of predicting misconduct. That article concludes that "there is simply no way to reduce the number or percentage of false positives to manageable figures, while still spotting any significant number of percentage of true positives . . . It is not feasible to develop predictive criteria capable of sorting out the future offenders from the non-offenders."

* * *

Senator Harry Byrd (D., N.C.) has proposed that the Constitution be amended to require that Federal judges be reconfirmed by the Senate every eight years. He feels the change is made necessary by two factors: the trend to centralization, and the need to balance the principle of judicial independence against the need for accountability of public officials. Senator Byrd feels that fixed tenure and periodic reconfirmation would be compatible with what he sees as an "over-all movement in American government toward a more broadly based democracy." Excessive activism by Federal judges, he says, means that the judiciary is no longer truly distinct from the legislative and executive branches, and therefore has lost its claim to the privilege of lifelong tenure.

* * *

A recent decision by Judge Waddy of the U.S. District Court, District of Columbia, has held that failure to provide mentally retarded children and children with behaviorial problems with special education violates statutes, regulations, and the Due Process Clause of the Fifth Amendment. The plaintiffs had been denied admission to public schools and had no alternative educational placement available.

* * *

The Institute of Court Management has studied Hennepin County District Court and found it to be as efficient as any other court in the country. Further, the study found that the use of a new modified block-assignment procedure for setting trial dates has alleviated uncertainties and delays since the system was begun in February. One result has been a 16 per cent increase, to 81 per cent, of jury cases pending which are less than one year old.

* * *

The Federal Trade Commission (FTC) has announced that it will pay for the expenses of indigent parties or recognized intervenors in matters before the Commission.

The FTC has been paying counsel costs for indigents. Its new policy will allow it to cover: transcript, attendance, mileage and other expenses for witnesses and deponents; expenses of attorneys; and expenses of indigents whose attendance at the proceedings is necessary.

* * *

On September 13, 1972, Chief Justice Warren Burger denied the Solicitor General's application for a stay pending appeal in Griffin v. Richardson, in which a three-judge court in Baltimore held unconstitutional Section 203(a) of the Social Security Act which discriminates against illegitimate children in the dispersal of survivors' insurance benefits.

The three-judge court ordered that, in addition to current benefits, Secretary of HEW Richardson must pay retroactive benefits to all those illegitimate children who have been erroneously denied benefits in the past. This amounts to approximately $55 million in benefits. The Chief Justice's action means that these funds will now be released to illegitimate children throughout the nation.

* * *

Legislation to create a new consumer protection agency with the power to intervene in any government proceeding affecting the consumer and to act as an ombudsman for the people is currently stalled on the Senate floor. The House has already passed a bill providing for such an agency. Some Senators are attempting to eliminate the proposed agency's intervention power, leaving it only with power to file statements as a friend-of-the-court. Senator Ribicoff of Connecticut is one of the main sponsors of this legislation.

* * *

On September 5, the Price Commission set a 2.5% ceiling on increases in legal fees. The controls apply to law firms with more than 60 employees; the base price is that of November 14, 1971, the date of implementation of Phase II.

The Commission's action was taken as a result of a 13% increase which took place in fees for legal services during a 12-month period beginning in June of 1971.

Interest In CLE Surveyed

A recent survey of second and third year Mitchell students indicates more than 9 of 10 would be interested in participating in clinical legal assistance programs for credit.

Not all think they would be able to devote the eight work hours per week required for the program, but two-thirds of the sophomores and 62 per cent of the juniors do expect to have the time.

Each of the two classes rank the five proposed clinics in the same order:

— Interest is highest (more than 80 per cent) in the Civil Section.

— Around 60 per cent express interest in the Criminal Misdemeanor Section (open only to fourth year students) and the Juvenile Law Seminar.

— About 40 per cent each are intereted in the Criminal Appellate Section and Legal Assistance for Minnesota Prisoners.

About three-fourths of all students in the second and third year classes responded to the questionnaire.

New Orientation Format

Freshmen Encouraged To Become Active

The freshmen were again presented with the orientation program on the Friday night before classes began. This year the tune was the same but the lyrics were different, and a real welcome was extended to the new students. The Dean was mild mannered and soporific, and the student panel this year was headed by Kay Silverman, who introduced the students to the wide range of extra-curricular activities available. The various interest groups represented also got a chance to give a pitch and recruit for their group. Their purpose was to show the students that becoming active in special interest groups makes school a much more enlightening and pleasant experience.

Professors Davies, Montague, and Florin each imparted a bit of advice and some practical knowledge to the students. The evening ended with coffee and doughnuts being served by the Law Wives.

FALL WELCOME PARTY SUCCESSFUL—The Fall Welcome party was the best-attended since the SBA began hosting them. The supply of wine and beer was exhausted midway through the evening.

Phi Alpha Delta Initiates Members At Supreme Court

Seventeen new members were initiated into William Mitchell's Pierce Butler Chapter of the Phi Alpha Delta (PAD) law fraternity.

The ceremony, which must be held in a courtroom, was conducted in the Chambers of the Minnesota Supreme Court on Saturday, November 11.

For the first time ever, existing active and associate members of Pierce Butler, as well as the wives, husbands, or dates of both existing and new members were given the opportunity to observe the ceremony.

Following the initiation, a reception party was held at the St. Paul Hotel. Harry Wingerd, president of Pierce Butler, announced that the chapter now has 30 active members and 26 associate members. Active members belong to both the national fraternity and the local chapter. Associate members are those who have chosen to belong to the local chapter only.

Students Attend LSD Roundtable

Twenty-nine law students from all Eighth Circuit law schools convened in Des Moines, Iowa, for a weekend Roundtable session of the American Bar Association's Law Student Division (LSD). Drake University Law School students hosted the event.

Robert Varco, William Mitchell's LSD representative and newly-appointed LSD lieutenant governor for the circuit, represented Mitchell at the Roundtable, along with Stephen Bergerson, Editor-in-Chief of the OPINION and junior SBA representative, and Trygue Egge, sophomore SBA representative.

The purpose of the Roundtable was to provide a forum for Eighth Circuit law students to pool their knowledge and insights on matters which are of mutual concern. Students were given the opportunity to choose from and attend a number of informal discussion sessions.

The individual sessions covered the areas of clinical legal education, employment and summer placement services, publication of law school newspapers and law reviews, and minorities recruitment.

At a noon luncheon, the students listened to talks by Ray Tyra, Director of ABA/LSD, Ron Stites, member of the Student Lawyer editorial board and one of two law students who represent the LSD on the ABA's House of Delegates, and Warren Wear, a University of Missouri law student who is the LSD's Eighth Circuit membership director.

Tyra emphasized that the ABA has become very "youth oriented" and receptive to input from law students. He explained that in view of the great influence that the ABA has on national law-making by giving or withholding its endorsement, law students, by joining and participating in LSD, can have significant influence as well, through their delegates who sit and vote with the ABA's House of Delegates.

As an example, Tyra noted that it was an LSD committee member who cast the vote which decided that the ABA would not endorse a bill which proposed to eliminate the exclusionary rule in federal courts.

In his talk, Stites expressed his disappointment in the fact that despite the tremendous impact which students can have on the entire legal community by bonding themselves into a cohesive unit, many students have failed to do so. As LSD delegate to the ABA, he feels he cannot properly say he represents law students as a whole because he gets input only from those who are LSD members. Stites attributes the relatively low membership rate to a lack of understanding on the part of students as to just what the LSD is, does, and is able to do.

Before leaving the luncheon meeting to return to discussion groups, the students heard Warren Wear suggest ways in which they could convince their classmates to capitalize on the opportunities available through the Law Student Division.

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